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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,672	07/17/2003	Donald Peter Sahlem	Sahlem Hanger Device	2058

7590 01/10/2005
Donald P. Sahlem
4635 N. Millgrove Rd.
Akron, NY 14001

EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT PAPER NUMBER

3634

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,672

Applicant(s)

SAHLEM, DONALD PETER

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 8-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07-17-2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restriction

Applicant's election without traverse of species (i), and claims 1-5 and 7, in the reply filed on November 1, 2004 is acknowledged. *Accordingly*, claims 6 and 8-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic claim.

It is noted that the Examiner agrees with applicant's statement that Figures 8A and 8B are generic to species (i) and (ii).

Abstract

Applicant is reminded of the proper language and format for an abstract of the disclosure. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "is described" in line 3.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4, 5, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The use of the term "conventional" in lines 3 and 4 of claim 1 renders the claim indefinite since it is unclear what structure defines "conventional".

Claim 1 recites the limitation "the hook portions" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "said strap" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "said strap" in lines 1 and 3. There is insufficient antecedent basis for this limitation in the claim.

The term "wider" in claim 4 (see line 2) is a relative term which renders the claim indefinite. The term "wider" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear to which element this "wider" section is being compared.

Claim 4 is rendered indefinite the structural relationship between the elements is unclear from the recitation "at one extreme shouldered end" in line 3.

Claim 4 recites the limitations (a) "said slots" and (b) "said shoulders" in line 4. There is insufficient antecedent basis for these limitations in the claim.

Claim 5 recites the limitations (a) "the ends" in line 1, and (b) "the concave surface" in line 2. There is insufficient antecedent basis for these limitations in the claim.

Claim 7 is rendered indefinite. *In particular*, applicant improperly seeks to link functionally recited structure, e.g., the pole (and supports therefore), to positively recited structure, e.g., the cover, through the recitation in lines 4-6 of section (a), i.e., "with the first and second ends... on opposite sides of the pole". Accordingly, the metes and

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bounds of the claim cannot be properly ascertained since the pole (and the supports) appears to not be positively claimed. *To correct this*, it is suggested that --adapted to be-- be inserted before "adjacent" in line 4 of section (a) and "residing", in line 5 of section (a), be changed to --adapted to reside--.

The recitation "a length sufficient to be extendable around a lower side of the pole" in section (b) of claim 1, further renders the claim indefinite. *In particular*, a pole is not an element of the claimed device and it is improper to seek to define claimed structure based on a comparison to some unclaimed element. In this case, the boundaries of the claim cannot be properly ascertained because one would not know whether their device infringed the instant claim until someone else later added a pole. In other words, a device as defined in the claims would infringe the claim with one particular pole while the exact same device would not infringe the claim when another pole is used, i.e., poles can have different diameters, widths, shapes, etc.. *Accordingly*, the features of the device, itself, must be defined instead of relying upon a comparison with an ascertained element.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,496,060 (Anderson *et al.* '060).

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Insomuch as the claims are best understood (in view of the Section 112 rejections, advanced above), Anderson et al. '060 disclose a clothes hanger retaining device (see Figures 4 and 5) comprising an elongate inverted trough (at 23) shaped cover (22) which is positionable upon a clothes pole (17), and a strap means (33) is for retaining the cover (22) to the pole (17) whereby clothes hangers (14B) are sandwiched between the pole (17) and the cover (22); a plurality of slots (25) are defined in the cover (22); and the strap means (33) has a first section of a uniform width (at 34) and a second section (at 35) that is wider than the first section.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. '060 as applied to claims 1, 2, and 7 above, and further in view of U.S. Patent No. 5,697,508 (Rifkin et al. '508).

Anderson et al. '060 disclose the device as advanced above.

The claims differ from Anderson et al. '060 in requiring the strap means to be comprised of hook and loop material (claim 3).

Rifkin et al. '508 teach the use of a strap means (31) comprised of a hook and loop material.

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Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have had the strap means of Anderson *et al.* '060 to have been comprised of a hook and loop material for increased ease in use.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson *et al.* '060 as applied to claims 1, 2, and 7 above, and further in view of U.S. Patent No. 4,887,727 (Simmerman *et al.* '727).

Anderson *et al.* '060 disclose the device as advanced above.

The claims differ from Anderson *et al.* '060 in requiring the ends of the cover to be flanged.

Simmerman *et al.* '727 teach a cover (20) having flanged ends (near 48).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the cover of Anderson *et al.* '060 with flanged ends, for increased securement when placed on the clothes pole.

Conclusion

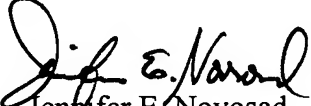
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

Please note, that due to the relocation of the U.S. Patent and Trademark Office from Arlington to Alexandria, Virginia, the Examiner's phone number will be changed. After April 5, 2005, please contact the Examiner at (571) 272-6832.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703)-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jennifer E. Novosad
Primary Examiner
Art Unit 3634

Jennifer E. Novosad/jen
January 5, 2005